

Application Serial No. 09/943,554  
Attorney Docket No. 60027.0306US01

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REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-26 were pending in the application, of which Claims 1, 15, and 20 are independent. In the Office Action dated April 13, 2006, Claims 1, 9, 13-15, 17, 19, 20, 22, 24, and 25 were rejected under 35 U.S.C. §102(e) and Claims 2-8, 10-10, 16, 18, 21, 23, and 26 were rejected under 35 U.S.C. §103(a). Following this response, Claims 1-20 and 22-26 remain in this application, with Claim 21 being canceled without prejudice or disclaimer. Applicant hereby addresses the Examiner's rejections in turn.

Claim Rejections - 35 U.S.C. § 102

In the Office Action dated April 13, 2006, the Examiner rejected Claims 1, 9, 13-15, 17, 19, 20, 22, 24, and 25 under 35 U.S.C. 102(e) as being anticipated by Anvekar et al., U.S. Patent No. 6,684,072 (hereinafter "*Anvekar*"). Claims 1, 15, and 20 have been amended and Applicant respectfully submits that the amendments overcome this rejection and add no new matter.

Amended Claim 1 is patentably distinguishable over the cited art for at least the reason that it recites, *inter alia*, crediting a user's account with prepaid roaming minutes; determining if the prepaid roaming minutes were purchased at a time greater than a predefined time before a call is made; if the prepaid roaming minutes were purchased at a time greater than the predefined time, subtracting roaming minutes from the user's account when the call is made outside the home calling area defined by the user's calling plan; and if the prepaid roaming minutes were not purchased at a time greater than the predefined time, subtracting the roaming minutes from the user's account at a non-discounted rate when the call is made outside the home calling area defined by the user's calling plan. Amended Claims 15 and 20 each contain a similar recitation. Support for the amendments can be found at least in the specification in paragraph [0042].

Consistent with an embodiment of the present invention, a roaming minutes module only subtracts the length of a call from the minutes in an account if the minutes were purchased a predefined time from when the call was made. (See paragraph [0042], lines 8-11.) The feature

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prevents users from purchasing prepaid roaming minutes immediately before making a telephone call. (See paragraph [0042], lines 11-12.)

In contrast, *Anvekar* at least does not disclose the aforementioned recitation. For example, *Anvekar* merely discloses a prepaid product rules database (PRD). (See col. 5, lines 16-17.) The PRD stores data relating to one or more prepaid accounts. (See col. 5, lines 18-19.) The call record and call details associated with a successfully placed call are monitored by a SPN call processor. (See col. 6, lines 56-58.) The prepaid account balance is updated (typically decremented) according to usage. (See col. 6, lines 59-60.) Because *Anvekar* only discloses that the prepaid account balance is typically decremented according to usage, *Anvekar* does not disclose determining if prepaid roaming minutes were purchase before a predetermined time before their use. In addition, *Anvekar* is silent regarding the use of discounted and non-discounted rates (See Office Action page 5, lines 4-5.)

*Anvekar* does not anticipate the claimed invention because, *inter alia*, *Anvekar* does not disclose crediting a user's account with prepaid roaming minutes; determining if the prepaid roaming minutes were purchased a predefined time before a call is made; if the prepaid roaming minutes were purchased at a time greater than the predefined time, subtracting roaming minutes from the user's account when the call is made outside the home calling area defined by the user's calling plan; and if the prepaid roaming minutes were not purchased at a time greater than the predefined time, subtracting the roaming minutes from the user's account at a non-discounted rate when the call is made outside the home calling area defined by the user's calling plan, as recited by amended Claim 1. Amended Claims 15 and 20 each include a similar recitation. Accordingly, independent Claims 1, 15, and 20 each patentably distinguishes the present invention over the cited art, and Applicant respectfully requests withdrawal of this rejection of Claims 1, 15, and 20.

Dependent Claims 9, 13, 14, 17, 19, 22, 24, and 25 are also allowable at least for the reasons described above regarding independent Claims 1, 15, and 20, and by virtue of their respective dependency upon independent Claims 1, 15, and 20. Accordingly, Applicant

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respectfully requests withdrawal of this rejection of dependent Claims 9, 13, 14, 17, 19, 22, 24, and 25.

**Claim Rejections - 35 U.S.C. § 103**

In the Office Action, Claims 2-8, 10-12, 16, 18, 21, 23, and 26 were rejected under 35 U.S.C. 103(a) as being obvious in view of *Anvekar*. Independent Claims 1, 15, and 20 have been amended and Applicant respectfully submits that the amendments overcome this rejection and add no new matter. Dependent Claims 2-8, 10-12, 16, 18, 21, 23, and 26 are also allowable at least for the reasons described above regarding independent Claims 1, 15, and 20, and by virtue of their respective dependency upon independent Claims 1, 15, and 20.

In addition, each of the above dependent Claims contains at least one recitation which the Office Action states is not disclosed by *Anvekar*. (See Office Action page 5, lines 4, 12, and 19; page 6, lines 4, 11, and 19; page 7, lines 3, 10, and 17.) As a result, Applicant respectfully suggests that the Office Action has failed to make a *prima facie* case of obviousness. In order to make a *prima facie* case of obviousness, the Office Action must set forth prior art which teaches or suggests every claim limitation. (See MPEP § 2143.) The Office Action merely states that it would have been obvious to modify *Anvekar* in view claimed subject matter characterized as "well known." If the Office Action continues to rely on unsupported contention, Applicant respectfully requests that support be provided. See, *In re Zurko*, 258 F.3d 1379, 59 U.S.P.Q.2d 1693 (Fed. Cir. 2001) (holding that the USPTO must point to some concrete evidence in the record to support core factual findings in a determination of patentability); Memorandum by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy (February 21, 2002) (stating that it is never appropriate to rely on common knowledge without evidentiary support as sole or principal evidence on which to base rejection). (See MPEP 2144.03). Accordingly, Applicant respectfully request withdrawal of the rejection of dependent Claims 2-8, 10-12, 16, 18, 21, 23, and 26.

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### CONCLUSION

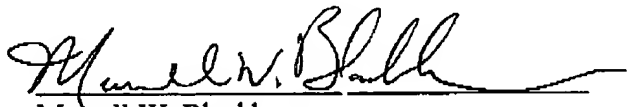
In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,

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